

### REMARKS

In the Office Action dated March 11, 2004, claims 1-32 were rejected. Claims 1-32 are now pending in the application. In view of the remarks, Applicant respectfully requests reconsideration of the application.

Claims 20-22, and 24-31 were rejected under U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,578,047 (hereinafter Deguchi). Applicant respectfully disagrees and notes that Deguchi should not be considered a prior art reference under 102(e). Applicant submits the enclosed affidavit under 37 CFR 1.131 for showing that the present application and Deguchi are commonly owned, therefore showing that Deguchi is not a prior art reference under 102(e).

Therefore, Claims 20 and 26 are in a condition for allowance. In addition, Claims 21-25 depend directly or indirectly on Claim 20 and Claims 27-31 depend directly or indirectly on Claim 26.

Claims 1-11, 14-16 and 32 were rejected under U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,850,218 (hereinafter LaJoie) in view of U.S. Patent No. 6,680,714 (hereinafter Wilmore).

Applicant previously amended Claims 1 and 32 to include the limitation of:

wherein said data mark indicates a time and said data  
mark represents content that is broadcasted at said  
time

LaJoie teaches use of an interactive programming guide that allows a user to select specific programming from a plurality of choices. The Examiner references Figure 16 with elements 346, 348, and 350 with regard to said data mark in the present application. Applicant respectfully disagrees. Applicant

believes that element 346 indicates a range of time that a particular program is being broadcast in marked contrast to said data mark of the present application where the said data mark indicates a time. Further, elements 348 and 350 of LaJoie also fail to teach said data mark of the present application. Accordingly, LaJoie fails to teach, hint or suggest a data mark that indicates a time.

Therefore, LaJoie in combination with Wilmore fails to render Claims 1 and 32 unpatentable. Thus, independent Claims 1 and 32 are in condition for allowance. In addition, Claims 2-11, and 14-16 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above.

Claims 12-13 and 17-19 were rejected under U.S.C. § 103(a) as being unpatentable over LaJoie in view of Wilmore further in view of U.S. Patent No. 6,507,727 (hereinafter Henrick). Claims 12-13, and 17-19 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

Dated: ~~3/17/04~~

5/14/04 RHB

Respectfully submitted,

  
Richard H. Butler  
Registration No. 40,932

Please Send Correspondence to:  
Valley Oak Law  
5655 Silver Creek Valley Road  
#106  
San Jose, CA 95138  
(408)223-9763